



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6136-N-02]

Waiver and Alternative Requirement for Community Development Block Grant

Disaster Recovery (CDBG-DR) Grantees

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: On January 9, 2019, HUD published a *Federal Register* notice waiving and establishing an alternative requirement for the timing of review of Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plans for Disaster Recovery and Action Plan amendments that were pending approval as of December 22, 2018. HUD took this action due to the lapse in its appropriations for Fiscal Year (FY) 2019 and the resultant inability to satisfactorily complete the review and approval process consistent with HUD's customary timeline. The January 9, 2019 notice stated that HUD would announce a revised time period for completion of the review of pending Action Plans and amendments following enactment of funding for the Department's normal operations. Through this notice, HUD announces the revised review deadline.

DATES: Applicability Date: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: David C. Woll, Jr., Acting Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 7100, Washington, DC 20410, telephone number 202-708-2690. Persons with hearing or speech disability may access this number via TTY/VRS by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Woll

at 202-708-0033. (Except for the “800” number, these telephone numbers are not toll-free.)

Email inquiries may be sent to disaster_recovery@hud.gov.

SUPPLEMENTARY INFORMATION

I. Background

Public Law 115-123¹ appropriated \$28 billion of CDBG-DR funding for two purposes: (1) to address unmet needs arising from certain major declared disasters that occurred in 2017²; and (2) to fund mitigation activities for all CDBG-DR grantees that received CDBG-DR funding in response to unmet needs arising from major disasters declared in 2015, 2016, and 2017. These funds were in addition to \$7.4 billion appropriated by Public Law 115-56³ for unmet needs arising from major declared disasters in 2017. HUD allocated virtually all funding for unmet needs and established administrative requirements via two *Federal Register* notices published on February 9, 2018⁴, and August 14, 2018⁵.

In general, the funds for unmet needs are to be used for activities authorized under title I of the Housing and Community Development Act of 1974⁶ (HCD Act) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the “most impacted and distressed” areas resulting from the qualifying major disaster. By providing the supplemental disaster recovery funding under title I of the HCD Act, Congress implicates the general statutory and regulatory requirements of the Community Development Block Grant (CDBG) program.

¹ See Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018, title XI, subdivision I, division B, of Public Law 115-123.

² Of the amounts for unmet needs, \$2 billion in CDBG-DR is more specifically for the purpose of enhancing or improving electrical power systems in jurisdictions affected by Hurricane Maria in 2017. A *Federal Register* notice for such amounts will be published in the future.

³ See Supplemental Appropriations for Disaster Relief Requirements, 2017, division B of Public Law 115-56.

⁴ 83 FR 5844.

⁵ 83 FR 40314.

⁶ 42 U.S.C. 5301 *et seq.*

Public Laws 115-123 and 115-56 require that, prior to the obligation of funds, grantees must submit for approval a plan to the Secretary that details the proposed use of funds. The February 9, 2018, and August 14, 2018, *Federal Register* notices and 24 CFR 91.500(a) provide that HUD must review these plans within 45 days from the date of receipt. HUD may use its regulatory waiver authority at 24 CFR 5.110 to extend this review period to 60 days from the date of receipt, consistent with HUD's implementation of section 105(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(c)(1)), which governs action plan submissions under HUD's consolidated planning regulations at 24 CFR part 91.

Public Laws 115-123 and 115-56 also authorize the Secretary of HUD to waive or specify alternative requirements for any statutory or regulatory provision administered by HUD in connection with CDBG-DR funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) upon a finding of good cause that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCD Act.

Commencing at 12:00 a.m. Eastern Standard Time (EST) on December 22, 2018, and ending on January 25, 2019, HUD operations were limited to certain excepted activities as a result of the lapse in FY 2019 appropriations. As a result, HUD could not be assured of completing its review of pending submissions and issuing affirmative approvals within the 60-day period established by section 105(c)(1) of the Cranston-Gonzalez National Affordable Housing Act. Accordingly, on January 9, 2019⁷, HUD published a notice announcing that the Secretary found good cause to waive the statutory 60-day review deadline and was issuing an alternative requirement for review of pending Action Plans and Action Plan amendments involving funding under Public Laws 115-123 and 115-56. The January 9, 2019, *Federal*

⁷ 84 FR 97.

Register notice provided that “HUD would review pending Action Plan Amendments and Action Plans and provide affected grantees with a decision within a time period which will be announced by HUD after enactment of funding for the Department’s normal operations.”⁸

II. This Notice - Revised Review Deadline

This notice announces the revised deadline for HUD review of CDBG-DR Action Plans and amendments. The revised deadline is measured from the end of the appropriations lapse that impacted HUD’s operations. The Department will review and respond not later than March 1, 2019, Action Plan amendments that were pending as of December 21, 2018. This approach means that HUD will act upon such Action Plan amendments within 35 days of resuming operations subsequent to the appropriations lapse that ended January 26, 2019. Concurrently, the Department will review and respond not later than March 15, 2019, to Action Plans that were pending as of December 21, 2018. This means that HUD will act upon such Action Plans within 50 days of resuming operations subsequent to the same appropriations lapse. These timeframes account for days lost to the review process during the lapse but also account for time associated with the full resumption of regular work activities by HUD staff subsequent to the end of the

⁸ 84 FR 97, at 98, first column.

lapse. This approach acknowledges not only the general complexity of the Action Plan submissions, but also the cumulative impact upon HUD staffing and operations resulting from the lapse in appropriations.

Dated: February 22, 2019.

David C. Woll, Jr.,

Acting Assistant Secretary for

Community Planning and Development.

Billing Code: 4210-67

[FR Doc. 2019-03530 Filed: 2/27/2019 8:45 am; Publication Date: 2/28/2019]